



STATE OF INDIANA

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August 1, 2018

Mr. Ben Burdick
Indiana Bureau of Motor Vehicles

Via email

Re: Informal Opinion 18-INF-10; DPPA protection of companies

Dear Mr. Burdick:

This informal opinion is in response to your inquiry about whether Driver Protection Privacy Act's prohibitions against disclosure applies to information maintained by the Bureau of Motor Vehicles ("BMV") regarding corporate entities. In accordance with Indiana Code section 5-14-4-10(5), I issue the following informal opinion to your inquiry.

BACKGROUND

In 2009, this Office issued an informal advisory opinion regarding the Driver's Privacy Protection Act ("DPPA") and its Indiana analogue. You seek guidance in light of that opinion and subsequent amendments to the law. Specifically, you are requesting this Office answer the question of whether the DPPA protections apply to corporate entities as well as individuals.

DISCUSSION

The Access to Public Records Act ("APRA") and the Driver's Privacy Protection Act

The Access to Public Records Act ("APRA") expressly states that "it is the public policy of the [State of Indiana] that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." Ind. Code § 5-14-3-1. In general, APRA governs access to public records in Indiana. What is more, public records are presumptively disclosable unless an exception applies.

Records declared confidential by state or federal law or administrative code are exempt from disclosure pursuant to Indiana code sections 5-14-3-4(a)(1);(2); and (3). This Office has the authority to opine on not only the APRA but also any other statute or rule governing access to public records. *See* Ind. Code § 5-14-4-3.

The Indiana Drivers Privacy Protection Act requires the BMV to protect the privacy of personal information contained in motor vehicle records. Specifically, the Bureau shall not disclose certain personally identifiable information pursuant to the Act. *See* Ind. Code § 9-14-13. It turns, this makes the information confidential under the APRA as well pursuant to Indiana code section 5-14-3-4(a)(1).

Personally identifiable information is defined by Indiana Code section 9-14-6-6 as:

“Personal information” means information that identifies an individual, including an individual’s:

- (1) digital photograph or image;
- (2) Social Security number;
- (3) driver’s license or identification document number;
- (4) name;
- (5) address (but not the ZIP code);
- (6) telephone number; or
- (7) medical or disability information.

The term does not include information about vehicular accidents, driving or equipment related violations, and driver’s license or registration status.

The term “individual” is not defined by the DPPA chapter. Therefore “[w]hen interpreting a statute the words and phrases in a statute are to be given their plain, ordinary, and usual meaning unless a contrary purpose is clearly shown by the statute itself.” *Journal Gazette v. Board of Trustees of Purdue University*, 698 N.E.2d 826, 828 (Ind. App. 1998).

Two other phrases which are defined in Title 9 are instructive. For example, the term “disclose” is defined as engaging “in a practice or conduct to make available and make known personal information contained in a record **about a person** to another person by any means of communication. *See* Ind. Code § 9-13-6-2 (emphasis added).¹ Moreover, the term “person” is defined as “an individual, a firm, a partnership, an association, a fiduciary, an executor or administrator, a governmental entity, a limited liability company, a corporation, a sole proprietorship, a trust, an estate, or another entity.” *See* Ind. Code § 9-13-2-124.²

While not every item considered to be personal information would apply to a corporate entity (photographs, social security numbers, etc.), some most certainly would (name, address, telephone number, etc.). Yet it stands to reason that the personal information of “an individual, a firm, a partnership, an association, a fiduciary, an executor or administrator, a governmental entity, a limited liability company, a corporation, a sole proprietorship, a trust, an estate, or another entity” would qualify for protection against disclosure guaranteed by the statute.

¹ This definitional interpretation applies to the entire *chapter* pursuant to Indiana code section 9-14-6-1.

² This definitional interpretation applies to the entire *title* pursuant to Indiana code section 9-13-1-1.

CONCLUSION

Based upon the statutory definitions in Title 9, it is the Opinion of the Public Access Counselor that the information held by the Bureau of Motor Vehicles enumerated in the Indiana Driver's Privacy Protection Act is protected regardless of whether the information pertains to an individual or a corporate entity.

Please do not hesitate to contact me with any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor